

REMARKS

Claims 1-4, 10, 12-14 and 20-25 stand rejected as being anticipated under 35 U.S.C. 102(e) by U.S. Pat. No. 6,301,531 (Pierro). Claims 5-9, 11, 15-19 and 26-31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Pierro. Reconsideration of the rejections is solicited in view of the foregoing amendments and the following remarks.

Claims 1-2, 15 and 20-25 have been amended. Claims 12-14 have been cancelled. New claims 37-47 have been added.

Applicant notes that claims 32-37 were previously presented via preliminary amendment dated June 7, 2004. The private PAIR database of the Patent Office shows timely receipt of such preliminary amendment. However, there is no indication in the Office Action regarding the entering of this preliminary amendment and examination of the claims presented therein. Applicant submits that this preliminary amendment should have been entered since such preliminary amendment did not unduly interfere with the preparation of an Office action. 37 CFR 1.115(b). See MPEP § 714.03(a). In any event, applicant requests that such claims be considered at this time for substantive examination together with all the presently pending claims.

Applicant further notes for the information of the Examiner that a petition to claim benefit of a prior copending non-provisional application was filed on June 10, 2004 together with a second preliminary amendment. See attachment including copies with details regarding such petition and second preliminary amendment. No information has been received to date by applicant regarding the status of such petition.

It is respectfully noted that the subject matter of U.S. Pat. No. 6,301,531 (Pierro) and the presently claimed invention, were, at the time the invention was made, owned by the same entity (General Electric Company) or subject to an obligation of assignment to the same entity. Consequently, under 35 U.S.C. 103(c), Pierro cannot be used as prior art to preclude patentability under section

103 of the statute. Thus, the rejection of claims 5-9, 11, 15-19 and 26-31 should be withdrawn.

Regarding any rejection under §102, it is noted that the test for anticipation is whether all the elements and operational relationships of the rejected claim are found within a single prior art reference. There must not be any differences between the claimed invention and the reference disclosure as viewed by a person of ordinary skill in the art. Absent from the reference disclosure of any claim element and/or operational interrelationship negates anticipation under §102.

Claim 1 has been amended to emphasize aspects of the present invention. Claim 1 is directed to a computerized method for managing a plurality of mobile assets using information indicative of actual usage of each asset. The method allows collecting data regarding each of a plurality of mobile assets. The method further allows providing a set of rules comprising relationships for processing the collected data to determine a plurality of operational modes for each asset. Each of the operational modes is associated with a distinct level of wear in an asset. The data is processed relative to the set of rules to develop historical information regarding actual usage of each mobile asset. The information for the actual usage is arranged so as to list a plurality of operational modes accumulated for the asset over a selectable period of time.

Pierro is directed to apparatus and method for predicting vehicle breakdown by establishing or calculating trends in monitored data. Accordingly, claim 1 of Pierro (which is essentially the basis for the anticipation-type of rejections cited in the office action) recites operational relationships to that effect. However, this is very different from the concepts embodied in the structural and/or operational relationships recited in claim 1 of the present invention. Applicant respectfully submits that, even under a reasonably broad interpretation of the English language, one of ordinary skill in the art would not find that Pierro teaches each of the structural and/or operational relationships recited in claim 1 of the present invention. Thus, applicant request that this grounds of rejection under 35 USC 102(e) be withdrawn. Since each of claims 2-11 that depend from

claim 1 includes the structural and/or operational relationships respectively recited in such independent claim 1, it is also respectfully submitted that the applied art also fails to anticipate or otherwise render unpatentable each of such dependent claims.

Claim 15 has been amended to provide antecedent basis to the noun "operator".

Claim 20 has been amended to emphasize aspects of the present invention. Applicant respectfully submits that one of ordinary skill in the art would not find that Pierro teaches each of the structural and/or operational relationships recited in claim 20 of the present invention. Thus, applicant request that this grounds of rejection under 35 USC 102(e) be withdrawn.

Claim 21 has been amended to emphasize aspects of the present invention. Applicant respectfully submits that one of ordinary skill in the art would not find that Pierro teaches each of the structural and/or operational relationships recited in claim 21 of the present invention. Thus, applicant request that this grounds of rejection under 35 USC 102(e) be withdrawn.

Claim 22 has been amended to emphasize aspects of the present invention. Applicant respectfully submits that one of ordinary skill in the art would not find that Pierro teaches each of the structural and/or operational relationships recited in claim 22 of the present invention. Thus, applicant request that this grounds of rejection under 35 USC 102(e) be withdrawn.

Claim 23 has been amended to emphasize aspects of the present invention. Applicant respectfully submits that one of ordinary skill in the art would not find that Pierro teaches each of the structural and/or operational relationships recited in claim 23 of the present invention. Thus, applicant request that this grounds of rejection under 35 USC 102(e) be withdrawn.

Claim 24 has been amended to emphasize aspects of the present invention. Applicant respectfully submits that one of ordinary skill in the art would not find that Pierro teaches each of the structural and/or operational relationships recited in claim 24 of the present invention. Thus, applicant request that this grounds of rejection under 35 USC 102(e) be withdrawn.

Claim 25 has been amended to emphasize aspects of the present invention. Applicant respectfully submits that one of ordinary skill in the art would not find that Pierro teaches each of the structural and/or operational relationships recited in claim 25 of the present invention. Thus, applicant request that this grounds of rejection under 35 USC 102(e) be withdrawn.

Newly presented dependent claims 37-42 and 47 set forth that the mobile assets are railroad locomotives, and newly presented dependent claims 43-46 set forth that the vehicles are railroad locomotives.

It is respectfully submitted that each of the claims pending in this application recites patentable subject matter and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

The applicant appreciates the Examiner's efforts for conducting a thorough examination, and cordially invites the Examiner to call the undersigned attorney if there are any outstanding items that may be resolved via telephone conference.

Dated this 10<sup>th</sup> day of January, 2005

Respectfully submitted,



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